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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,717	02/08/2001	Richard J. Chutorash	LUTA 0316 PUS	4416

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EXAMINER
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SHINGLES, KRISTIE D

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 10/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/779,717

Applicant(s)

CHUTORASH, RICHARD J.

Examiner

Kristie Shingles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

*Applicant has cancelled claims 1-7, 9 and 13 and amended claims 8 and 12, thus claims 8 and 10-12 are now pending.*

### ***Claim Rejections - 35 USC § 112, second paragraph***

The proposed correction to claim 8 filed on June 25, 2004 has been accepted.

### ***Response to Arguments***

1. Applicant's arguments filed on June 25, 2004 have been fully considered but they are not persuasive. The applicant has amended claims 8 and 12 to indicate that the claimed invention generally differs from Woll et al in that the claimed invention includes an occupant of a motor vehicle declaring an event in response to the occupant experiencing irregular behavior of the motor vehicle while the motor vehicle is being driven without being involved in an accident such that a sensor signal generated at the time the occupant declared the event is marked in order to transfer the sensor signals stored in memory which were generated at times proximate to the time the occupant declared the event.

However it is the examiner's position that Woll et al teach the above limitations in accordance with the disclosed embodiments (Abstract, col.2 lines 5-57 and col.6 line 14-col.7 line 45) and therefore amended independent claim 8 is rejected as well as amended dependent claim 12 and dependent claims 10 and 11.

Woll et al disclose, "...declaring an event in response to the occupant experiencing irregular behavior of the motor vehicle while the motor vehicle is being driven without being involved in an accident..." The examiner's position is that this condition is provided for with the implementation of the ERA monitoring and recording system upon indication of user's/driver's manual activation of the switch which allows for users/drivers to declare an event at their own discretion according to their own particular preference—whether it's due to vehicular problems, from involvement in an accident, or just for analysis of vehicle performance parameters.

Woll et al further disclose, "...a sensor signal generated at the time the occupant declared the event is marked in order to transfer the sensor signal stored in memory..." The examiner's position is that this limitation is provided for with the use of various sensors allowing users/drivers to choose to activate/deactivate particular sensors at specific time intervals for monitoring/recording, which upon activation, send data for storage in the system's memory and is further displayed on the output module.

***Claim Objections***

2. Claim 12 is objected to because of the following informalities: phrase redundancy, "The method of claim of claim 8..." should read "The method of claim 8..." (page 3, line 9). Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims **8, 10 and 12** are rejected under 35 U.S.C. 102(b) as being anticipated by Woll et al (USPN 5,581,464).

a. Per claim 8, Woll et al teach for recording motor vehicle data regarding a monitored operating condition of a motor vehicle in response to an occupant of the motor vehicle declaring an event in response to experiencing irregular behavior of the motor vehicle while the motor vehicle is being driven without being involved in an accident, the method comprising:

- generating sensor signals indicative of motor vehicle data regarding a monitored operating condition of a motor vehicle as a function of time (Abstract; ERA system records monitored motor vehicle operational events such as speed, engine timing and acceleration, which by virtue are functions of time);
- writing the sensor signals into a memory device as the sensor signals are being generated for storage in the memory device (Abstract; ERA system comprises

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memory and is configured to store the operational vehicle information received from the various sensors);

- an occupant of the motor vehicle actuating a switch in order to declare an event in response to the occupant experiencing irregular behavior of the motor vehicle while the motor vehicle is being driven without being involved in an accident (col.6 line 64-col.7 line 20; data capture can be implemented upon indication of user's activation of a manual switch which permits users to activate recording at their own discretion whether for experiencing irregular vehicle behavior or for analysis of performance purposes);
- generating an event signal at the time the occupant of the motor vehicle actuated the switch (Abstract and col.6 line 64-col.7 line 27; data capture and recording can be generated upon user's activation of a manual switch);
- marking the sensor signal generated at the time the occupant of the motor vehicle actuated the switch (Abstract and col.6 line 64-col.7 line 45; upon user's activation of a manual switch, the specific sensors are marked for monitoring, data capture and recording); and
- transferring from the memory device to an output device the sensor signals stored in the memory device which were generated at time proximate to the time the occupant of the motor vehicle actuated the switch (col.4 lines 19-25; system comprises an output module for display of operational parameters upon detection of particular sensor indicators).

b. Per claim 10, Woll et al teach the method of claim 8 wherein: generating sensor signals includes generating a sensor signal indicative of motor vehicle acceleration (Abstract, col.7 lines 19-23 and col.8 lines 8-16; system comprises sensors for monitoring and recording motor vehicle acceleration).

c. Per claim 12, Woll et al teach the method of claim 8 wherein: transferring the sensor signals includes transferring the sensor signals stored in the memory device which were generated at times before, during, and after the occupant of the motor vehicle actuated the switch (col.6 line 14- col.7 line 3; system's memory has ability to transfer stored data at various points

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in time and at periodic intervals dependent upon the driver's/user's preferences for the mode of operation).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woll et al in view of Peer et al (USPN 6,163,755).

Per claim 11, Woll et al teach the method of claim 8 as applied above, yet fail to distinctly disclose the method of claim 8 wherein generating sensor signals includes generating a sensor signal indicative of video images of the environment surrounding the motor vehicle. However, Peer et al teach the implementation of video camera for capturing images of the environment surrounding the motor vehicle (Abstract, Fig. 1a and 1b).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to provide a video sensor along with other vehicle sensors for the purpose of acquiring and displaying video images of the driving terrain to the driver/user. One skilled in the art would have been motivated to generate the claimed invention with a reasonable expectation of success.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Klausner et al (USPN 6,629,030) disclose a method and device for recording vehicle data.
- b. Saski (USPN 6,574,538) disclose an operational condition recording apparatus and operating control system utilizing it.
- c. Liu (USPN 6,397,132) disclose an electronic throttle control with accident recordal unit.
- d. Iannotti et al (USPN 6,356,823) disclose a system for monitoring and recording motor vehicle operating parameters and other data.
- e. Abe et al (USPN 6,289,290) disclose a memory apparatus for vehicle information data.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,



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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

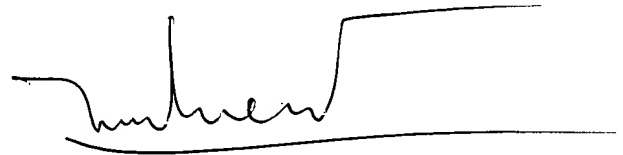
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 703-605-4244 or (571-272-3888 after 10/26/04). The examiner can normally be reached on Monday-Friday 8:30-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 703-305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles  
Examiner  
Art Unit 2141

kds

A handwritten signature in black ink, appearing to read 'Le Hien Luu', with a horizontal line underneath.

LE HIEN LUU  
PRIMARY EXAMINER